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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/733,750	12/08/2000	L. Michael Maritzen	80398.P400	4798

7590

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EXAMINER

KRAMER, JAMES A

ART UNIT

PAPER NUMBER

3627

DATE MAILED: 01/27/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

SK

**Office Action Summary**

Application No.

09/733,750

Applicant(s)

MARITZEN, L. MICHAEL

Examiner

James A. Kramer

Art Unit

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**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --****Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-19 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                             | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). ____.  |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                    | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) ____. | 6) <input type="checkbox"/> Other: _____                                    |

## DETAILED ACTION

### *Claim Rejections - 35 USC § 102*

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-19 are rejected under 35 U.S.C. 102(b) as being anticipated by Dworkin in US Patent number 4,992,940.

Dworkin teaches a system and method for enabling a user to purchase products based on a desired set of specifications. Dworkin teaches initiating a transaction between an access device and a primary merchant. In this case the access device is a terminal connected to the system of Dworkin via telephone lines and modems or their equivalents (column 4; lines 6-7). Additionally the primary merchant is the computer system of CPU of Dwarken (shown as reference number 1 in Figure 1). After the user orders a product through the CPU, he/she is prompted for information necessary to complete the transaction. The CPU then generates the appropriate documents for recording the transaction and transmits the order electronically to the supplier who then completes the transaction (column 2; lines 34-41). Dworkin teaches providing the user with an electronic transaction number that serves as an e-receipt (column 8; lines 30-32).

Examiner interprets the supplier to be an ancillary merchant. In addition, once examiner inputs information to the CPU or primary merchant he/she is no longer required to provide any additional information. Examiner would also like to note that it is inherent to this system that the ancillary merchants must pay the owner/operators of the CPU (the primary merchants) a referral fee in order to pay for the equipment, maintenance and operation of the system.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dworkin in US Patent number 4,992,940 in view of Bezos et al. in US Patent number 6,029,141.

Dworkin teaches a system and method for enabling a user to purchase products based on a desired set of specifications. Dworkin teaches initiating a transaction between an access device and a primary merchant. In this case the access device is a terminal connected to the system of Dworkin via telephone lines and modems or their equivalents (column 4; lines 6-7). Additionally the primary merchant is the computer system of CPU of Dwarken (shown as reference number 1 in Figure 1). After the user orders a product through the CPU, he/she is prompted for information necessary to complete the transaction. The CPU then generates the appropriate documents for recording the transaction and transmits the order electronically to the supplier who then completes the transaction (column 2; lines 34-41). Dworkin teaches providing the user with an electronic transaction number that serves as an e-receipt (column 8; lines 30-32).

Examiner interprets the supplier to be an ancillary merchant. In addition, once examiner inputs information to the CPU or primary merchant he/she is no longer required to provide any additional information.

Dworkin does not teach the supplier (or ancillary merchant) paying a referral fee to the owner/operators of the CPU (the primary merchant) based on transactions initiated by the CPU.

Bezos teaches a referral system where an associate is paid a referral fee based on transactions carried out by a merchant system in order to compensate the associate for services rendered. The associate passes identification information to the merchant system, who in turn is able to use the identification information to pay the associated based on the referral.

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It would have been obvious to a person of ordinary skill in the art at the time the invention was made to combine the referral system of Bezos with the product purchasing system of Dworkin so as to allow the owner/operator of the CPU to collect a referral fee from the suppliers based on transactions initiated by the CPU system. In particular, the CPU system would pass identification information to the supplier, who in turn would use this information to issue or pay a fee based on the ensuing transaction.

A person of ordinary skill in the art at the time the invention was made would have been motivated to combine the referral system of Bezos with the product purchasing system of Dworkin in order to provide the owner/operators of the CPU compensation for services rendered.

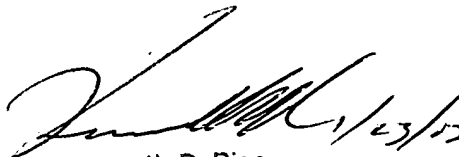
### *Conclusion*

Any inquiry concerning this communication or earlier communications from the examiner should be directed to James A. Kramer whose telephone number is (703) 305-5241. The examiner can normally be reached on Monday - Friday (8AM - 5PM).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Olszewski can be reached on (703) 308-5183. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 746-9123 for regular communications and (703) 872-9327 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1113.

James Kramer  
Patent Examiner  
January 16, 2003

  
Kenneth R. Rice  
Primary Examiner